

Deal or No Deal, Californians Have a Right to Know

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In the past few years, more lawmaking seems to have been pushed behind closed doors, with less public debate and transparency. Our state's budget process has been reduced to five people charged with the task of making California's books balance, while 116 legislators remain in the dark until it's time to vote. If the majority of lawmakers have no idea what is going on behind the closed doors of the "Big Five," surely the public knows even less.

Yet Americans, and Californians in particular, pride themselves on having a democratic system of government that is accountable, transparent and open to public participation. This pride is evident in California's initiative process. Voters demanded their right to vote on taxes with Proposition 13 and Proposition 218, and they rejected lavish legislative spending and entrenched political power with Proposition 130. Even the Legislature supported accountability with the Bagley-Keene Open Meetings Act, a measure that generally ensures that legislative business takes place in the open.

The budget process has become a repudiation of these principles we hold dear, and yet we accept it as a matter of expediency. The justification is that letting the public know will cause a deal to unravel. That's probably a reasonable assessment, given union leaders' threats of recall when they got word of Democratic leaders potentially making concessions to the state's employers, and the "heads on a stick" mantra that talk radio has employed against Republicans who indicated they would consider voting for a tax increase.

Although democracy is complicated, it is nonetheless a worthwhile endeavor. The 2008-09 budget provides a clear example of why raising public awareness of budget proposals may reduce the likelihood of long-term fiscal damage caused by decisions made in secrecy and haste. Not only was the budget \$3 billion out of whack almost immediately after it was enacted, but a little-known trailer bill will result in at least \$1.5 billion being removed from private-sector job creation and investment – an "anti-stimulus" bill at the worst possible time.

The bill, SB 28X (officially attributed to the Senate Budget and Fiscal Review Committee), imposes a new 20 percent retroactive penalty on corporations for underpayments of tax exceeding \$1 million, with no right to appeal. This bill was written in such a way that it doesn't just penalize tax cheats, but rather forces many law-abiding taxpayers to drastically overpay their state taxes in order to avoid being hit by this massive retroactive penalty that cannot be appealed.

The penalty is leading the state's job-creators to overpay any potential liabilities by May 31. These taxpayers will file a claim for refund the moment the overpayment is made.

The flawed bill that led to this situation was not even officially in print when it was voted on by the Legislature. Nor was it accurately represented to the Legislature or the press. On the contrary, it was represented as a doubling of an existing penalty from 10 percent to 20 percent.

How can our state's leaders make decisions that are good for the state while living in a vacuum, devoid of adequate information? The public should demand more, deal or no deal.